

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**EDUCATIONAL CREDIT
MANAGEMENT CORPORATION,**

Plaintiff,

v.

**Case No. 2:12-CV-00015
JUDGE EDMUND A. SARGUS, JR.
Magistrate Judge Mark R. Abel**

**THE HIGHER PEAKS LEARNING
ACADEMY, INC.,**

Defendant.

ORDER

On September 19, 2012, the Court granted default judgment against Defendant The Higher Peaks Learning Academy, Inc. ("Higher Peaks"). (ECF No. 6.) On October 18, 2012 the Magistrate Judge conducted a damages hearing. Although notice of the hearing was sent to Higher Peaks and its CEO and Executive Director, Yolanda Peaks-Bell, no representative appeared on behalf of Higher Peaks at the hearing. This matter is before the Court for consideration of the Magistrate Judge's October 29, 2012 Report and Recommendation. The Magistrate Judge recommended, in part, that the Court enter judgment in favor of Plaintiff in the amount of \$8,625.00 in addition to \$5,611 in attorney fees and \$557.73 in costs.¹

The Report and Recommendation explicitly advised the parties of their right to object within fourteen days. The Magistrate Judge warned that failure to object would "result in a waiver of *de novo* review by the District Judge and waiver of the right to appeal the judgment of the District Court." (Report and Recommendation 3, ECF No. 14.) The period for objections

¹ The Magistrate Judge based this figure on an estimation of Ms. Peaks-Bell's earnings since November 8, 2010.

has run and neither party has objected to the Report and Recommendation.

Under these circumstances, the Court **ADOPTS** the Report and Recommendation (ECF No. 14), subject to the following conditions. The Court **ENTERS JUDGMENT** against Defendant Higher Peaks in the amount of \$8,625.00 in addition to \$5,611 in attorney fees and \$557.73 in costs. Furthermore, as the Magistrate Judge recommended, the Court hereby **ENJOINS** Defendant Higher Peaks to the extent that it is **DIRECTED** it to comply in future wage garnishment.

The Report and Recommendation also recommended injunctive action, as well as potential civil contempt,² against Ms. Peaks-Bell. On November 23, 2012, the Court received notification that Ms. Peaks-Bell filed for bankruptcy in the United States Bankruptcy Court for the Southern District of Ohio. Consequently, the Court **STAYED** this action, only as to Ms. Peaks-Bell individually, as to any matter covered under 11 U.S.C. § 362. In light of this stay, and in an abundance of caution, the Court will not adopt the Magistrate Judge's recommendations specifically directed at Ms. Peaks-Bell at this time.

Given the circumstances of this case, and in light of the recommendation of the Magistrate Judge, the Court will retain jurisdiction over this matter for purposes of enforcement. Plaintiff's Motion to Clarify (ECF No. 19) is **DENIED** as moot in light of this Order.

IT IS SO ORDERED.

1-4-2013
DATE


EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE

² The Magistrate Judge specifically recommended that the Court hold Ms. Peaks-Bell in civil contempt if she, and Defendant Higher Peaks, failed to comply with the Court's directive to produce certain documentation by November 16, 2012. (Report and Recommendation 2, ECF No. 14.)